



[7590-01-P]

NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Alex S. Karlin, Chairman
Dr. Anthony J. Baratta
Dr. William M. Murphy

In the Matter of

PROGRESS ENERGY FLORIDA, INC.

(Levy County Nuclear Power Plant, Units 1 and 2)

Docket Nos. 52-029-COL, 52-030-COL

ASLBP No. 09-879-04-COL-BD01

December 7, 2011

NOTICE

(Opportunity to Make Oral or Written Limited Appearance Statements)

This Atomic Safety and Licensing Board hereby gives notice that it will accept oral or written limited appearance statements from members of the public regarding the application of Progress Energy Florida, Inc. (PEF) to the United States Nuclear Regulatory Commission (NRC) for a license to construct and operate two nuclear power plants in Levy County, Florida. Two sessions to hear oral limited appearance statements will be held on January 12, 2012, in Crystal River, Florida.

I. Background and Scope of Proceeding

On December 8, 2008, the NRC published a notice in the Federal Register that any interested person could file a challenge to PEF's application to construct and operate two proposed nuclear power plants in Levy County, Florida and could request an adjudicatory hearing thereon. 73 Fed. Reg. 74,532 (Dec. 8, 2008) (ADAMS Accession No. ML083430114). On February 6, 2009, the Nuclear Information and Resource Service, the Ecology Party of

Florida, and the Green Party of Florida (Intervenors) filed such a challenge and request.¹ On February 23, 2009, this Board was established to handle the matter and to preside over any contested adjudicatory proceeding relating to the PEF application.² On July 8, 2009, this Board granted the Intervenors' request, ruling that they had shown standing and had raised at least one admissible contention. See LBP-09-10, 70 NRC 51, 147 (2009) (ADAMS Accession No. ML091890822).

The scope of this contested adjudicatory proceeding, and thus the appropriate scope of any limited appearance statements, is defined by the contentions that have been raised by the Intervenors and that have been admitted, i.e., have been ruled to satisfy the requirements set forth in the relevant NRC regulation, 10 C.F.R. § 2.309(f)(1).³ The Intervenors have proffered several contentions, but at this point only one such admitted contention remains in litigation - Contention 4A.⁴ Contention 4A, therefore, defines the appropriate scope of any limited appearance statements.⁵ Contention 4A reads as follows:

Contention 4A: The Draft Environmental Impact Statement (DEIS) fails to comply with 10 C.F.R. Part 51 and the National Environmental Policy Act

¹ Petition to Intervene and Request for Hearing by the Green Party of Florida, the Ecology Party of Florida and Nuclear Information and Resource Service (Feb. 6, 2009) (ADAMS Accession No. ML090371107).

² Progress Energy Florida, Inc.; Establishment of Atomic Safety and Licensing Board, 74 Fed. Reg. 9113 (Mar. 2, 2009) (ADAMS Accession No. ML090540936).

³ In addition to the contested adjudicatory proceeding being conducted by this Board, there will be an uncontested adjudicatory proceeding concerning PEF's application to construct and operate the two proposed nuclear power plants in Levy County. See 42 U.S.C. § 2239(a)(i)(A). The content of the uncontested proceeding is not within the scope of this adjudication. See "Conduct of Mandatory Hearings on Applications for Combined Licenses," Internal Commission Procedures at IV-12 – IV-21 (ADAMS Accession No. ML11269A125).

⁴ Licensing Board Memorandum and Order (Admitting Contention 4A) (February 2, 2011) at 20 (unpublished) (ADAMS Accession No. ML110330394).

⁵ If additional contentions are subsequently admitted, or if Contention 4A is subsequently settled, dismissed, or revised, then the scope of this proceeding will change accordingly.

because it fails to specifically and adequately address, and inappropriately characterizes as SMALL, certain direct, indirect, and cumulative impacts, onsite and offsite, of constructing and operating the proposed LNP facility:

- A. Impacts to wetlands, floodplains, special aquatic sites, and other waters, associated with dewatering, specifically:
 - 1. Impacts resulting from active and passive dewatering;
 - 2. Impacts resulting from the connection of the site to the underlying Floridan aquifer system;
 - 3. Impacts on Outstanding Florida Waters such as the Withlacoochee and Waccasassa Rivers;
 - 4. Impacts on water quality and the aquatic environment due to alterations and increases in nutrient concentrations caused by the removal of water; and
 - 5. Impacts on water quality and the aquatic environment due to increased nutrients resulting from destructive wildfires resulting from dewatering.
- B. Impacts to wetlands, floodplains, special aquatic sites, and other waters, associated with salt drift and salt deposition resulting from cooling towers (that use salt water) being situated in an inland, freshwater wetland area of the LNP site.
- C. As a result of the omissions and inadequacies described above, the Draft Environmental Impact Statement also failed to adequately identify, and inappropriately characterizes as SMALL, the proposed project's zone of:
 - 1. Environmental impacts;
 - 2. Impact on Federally listed species;
 - 3. Irreversible and irretrievable environmental impacts; and
 - 4. Appropriate mitigation measures.

As specified below, members of the public are invited to submit oral or written statements, referred to as "limited appearance statements" related to Contention 4A.

II. Notice of Oral Limited Appearance Statement Sessions

A. Date, Time, and Location of Oral Limited Appearance Statement Sessions

The oral limited appearance statement sessions will be held on the following dates, at the specified location and times:

DATE: Thursday, January 12, 2012

TIME: 1:00 p.m. to 4:00 p.m. and 7:00 p.m. to 10:00 p.m.

LOCATION: Plantation Inn Resort
9301 West Fort Island Trail
Crystal River, Florida

B. Participation Guidelines for Oral Limited Appearance Statements

The purpose of the limited appearance statements is to allow members of the public who are not parties to the adjudication to provide the Board with statements setting forth their positions or concerns on matters relating to the admitted contentions.⁶ Such statements may be presented orally during the limited appearance sessions specified above or may be submitted in writing. Speakers should be aware, however, that the jurisdiction of this Board and the scope of this proceeding are limited to the PEF application, and, more particularly, to Contention 4A. Limited appearance statements enable members of the public to alert the Board to areas relating to the PEF application and the admitted contention where evidence may need to be adduced, and to assist the Board in its consideration of these issues. Oral limited appearance statements will be transcribed but are not under oath or affirmation and do not constitute formal testimony or evidence.

⁶ The parties to the adjudication (acting via their officers, directors, lawyers, pro-se representatives, experts, and other witnesses) have the opportunity to file formal motions and other pleadings, and to submit testimony and other evidence in the adjudication. Thus, the parties are not entitled to make limited appearance statements. 10 C.F.R. § 2.315(a). In contrast, limited appearance statements are the opportunity for the public to provide input.

Oral limited appearance statements will be entertained during the hours specified above, or such lesser time as may be sufficient to accommodate the speakers who are present. If all scheduled and unscheduled speakers present at a session have made a presentation, the Board reserves the right to terminate the session before the ending times listed above.

In order to allow all interested persons an opportunity to address the Board, the time allotted for each oral limited appearance statement will be no more than five minutes, and may be further limited depending on the number of written requests to make an oral statement that are submitted in accordance with section C below and/or the number of persons present at the designated times. At the outset of each statement, the speaker should identify himself or herself.

Members of the public who plan to attend the limited appearance sessions are advised that security measures may be employed at the entrance to the facility, including searches of hand-carried items such as briefcases or backpacks. Signs no larger than 18" by 18" will be permitted during the limited appearance sessions, but may not be attached to sticks, held up, or moved about in the room. Cf. Policy Statement on Enhancing Public Participation in NRC Meetings, 67 Fed. Reg. 36,920, 36,923 (May 28, 2002).

C. Submitting a Request to Make an Oral Limited Appearance Statement

Persons wishing to make an oral statement who have submitted a timely written request to do so will be given priority over those who have not filed such a request. To be considered timely, a written request to make an oral statement must be mailed, faxed, or sent by e-mail so as to be received by the Board by 5:00 p.m. EST on Thursday, January 5, 2011. The request should specify the session (afternoon or evening) during which the requester wishes to make an oral statement. Based on its review of the requests received by the deadline, the Board reserves the right to cancel or shorten either of the sessions due to a lack of public interest.

Written requests to make an oral statement should be submitted to:

Mail: Office of the Secretary
Rulemakings and Adjudications Staff
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Fax: (301) 415-1101 (verification (301) 415-1966)

E-mail: hearingdocket@nrc.gov

In addition, using the same method of service, a copy of the written request to make an oral statement should be sent to the Chairman of this Licensing Board as follows:

Mail: Alex S. Karlin, Chairman
c/o: Matthew E. Flyntz, Law Clerk
Atomic Safety and Licensing Board Panel
Mail Stop T-3 E2C
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Fax: (301) 415-5599 (verification (301) 415-7405)

Email: Matthew.Flyntz@nrc.gov and Sara.Culler@nrc.gov

D. Written Limited Appearance Statements

A written limited appearance statement may be submitted to the Board in addition to, or in lieu of, an oral limited appearance statement. The Board encourages early submissions, however, so that Board members will be able to consider them while addressing the issues in this proceeding. Such statements should be sent to the Office of the Secretary using the methods prescribed above, with a copy to the Board Chairman. A person who has already filed a written limited appearance statement in this matter is not required to resubmit it, but should notify the Board, as specified above, if he or she wishes to make an oral statement during the January sessions.

III. Availability of Documentary Information Regarding the Proceeding

Documents relating to this proceeding are available for public inspection at the Commission's Public Document Room (PDR) or electronically from the publicly available records component of NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible by clicking "Begin Web-based ADAMS Search" on the NRC web site at <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR reference staff by telephone at (800) 397-4209, (301) 415-4737, or by email to pdr@nrc.gov.

IV. Scheduling Information Updates

Any updated/revised scheduling information regarding the limited appearance sessions can be found on the NRC website at www.nrc.gov/public-involve/public-meetings/index.cfm or by calling (800) 368-5642, extension 5036, or (301) 415-5036.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/S/

Alex S. Karlin, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
December 7, 2011

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